

**LEWIS
AND
ROCA**
— LLP —
LAWYERS

3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169-5996
Facsimile (702) 949-8321
Telephone (702) 949-8320

Susan M. Freeman AZ State Bar No. 004199
Email: sfreeman@lrlaw.com
Rob Charles NV State Bar No. 0065934
Email: rcharles@lrlaw.com

Attorneys for USACM Liquidating Trust

E-Filed on 4/14/2009

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA Commercial Mortgage Company,

USA Capital Realty Advisors, LLC,¹

USA Capital Diversified Trust Deed Fund,
LLC,

USA Capital First Trust Deed Fund, LLC,²

USA Securities, LLC,³
Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR,
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR,
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**Response By The USACM
Liquidating Trust To the Motion For
Relief From The Automatic Stay To
Permit 3800 Prince Street, LLC To
Adjudicate Claims In State Court By
3800 Prince Street, LLC**

Date: April 29, 2009
Time: 1:30 p.m.
Place: Courtroom 1
Foley Federal Building
300 Las Vegas Blvd., South
Las Vegas, Nevada

The USACM Liquidating Trust respectfully suggests that the Motion For Relief From The Automatic Stay To Permit 3800 Prince Street, LLC To Adjudicate Claims In State Court By 3800 Prince Street, LLC should be denied as moot.

On January 8, 2007, this Court entered its Order Confirming the “Debtors’ Third Amended Joint Chapter 11 Plan of Reorganization” as modified herein. [DE 2376]. Confirmation of a chapter 11 plan of reorganization generally terminates the automatic

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.



1 stay under § 362(e) because confirmation of the plan reverts property of the estate in the
2 reorganized debtor or its successor within the meaning of § 362(c)(1),⁴ and the
3 confirmation order is the functional equivalent of a discharge within the meaning of §
4 362(c)(2)(C).⁵

5 Accordingly, the USACM Liquidating Trust respectfully requests that the Motion
6 be denied as moot.

7 Dated: April 14, 2009.

8 **LEWIS AND ROCA LLP**

9
10 By: /s/ RC (#6593)

11 Rob Charles, NV 6593

12 3993 Howard Hughes Parkway, Suite 600

13 Las Vegas, Nevada 89169-5996

14 Facsimile (702) 949-8321

15 Telephone (702) 949-8320

16 *Counsel for USACM Liquidating Trust*

17
18
19
20
21
22
23
24
25
26
27
28 ⁴ *In re Terrebonne Fuel and Lube, Inc.*, 108 F.3d 609, 613 (5th Cir. 1997).

⁵ *United States v. White*, 466 F.3d 1241, 1245 (11th Cir. 2006) (confirmation of the chapter 11 plan discharges the debtor and that discharge terminates the automatic stay).

Proof of Service

Address	Role
Edgar C. Smith Law Offices of Edgar C. Smith 7371 Prairie Falcon Road, #120 Las Vegas, Nevada 89128 ecs@nvrelaw.com	Attorney for 3800 Prince Street, LLC
Richard I. Dreitzer Deputy Attorney General State of Nevada Attorney General's Office 555 E Washington Avenue, Suite 3900 Las Vegas, NV 89101 richard.dreitzer@bullivant.com	Attorney General's Office
George A. Davis CADWALADER, WICKERSHAM & TAFT LLP One World Financial Center New York, NY 10281 george.davis@cwt.com	Attorney for Compass Partners LLC
Michael W. Carmel 80 E Columbus Avenue Phoenix, AZ 85012 Michael@mcarmellaw.com	Chapter 11 Trustee in Thomas A. Hantges Bankruptcy
Deborah D. Williamson COX SMITH MATTHEWS INCORPORATED 112 E Pecan Street, Suite 1800 San Antonio, TX 75205 dwilliamson@coxsmith.com	Attorneys for Ford Elsaesser, Chapter 11 Trustee in Joseph D. Milanowski Bankruptcy
Susan Williams Scann DEANER, DEANER, SCANN, MALAN & LARSEN 720 S Fourth Street, Suite 300 Las Vegas, NV 89101 sscann@deanerlaw.com	Attorneys for Binford Medical Developers, LLC
Berman, Geoffrey L. DEVELOPMENT SPECIALISTS, INC. 333 S. Grand Ave., Suite 4070 Los Angeles, CA 90071-1544 gberman@dsi.biz	Trustee for USACM Liquidating Trust



1	Address	Role
2	Allan B. Diamond	Special Litigation Counsel for
3	DIAMOND MCCARTHY TAYLOR FINLEY &	USACM Liquidating Trust
4	LEE, LLP	
5	Two Houston Center	
6	909 Fannin Street, Suite 1500	
7	Houston, TX 77010	
8	adiamond@diamondmccarthy.com	
9	Eric Madden	Special Litigation Counsel for
10	DIAMOND MCCARTHY TAYLOR FINLEY &	USACM Liquidating Trust
11	LEE, LLP	
12	1201 Elm Street, Suite 3400	
13	Dallas, TX 75270	
14	emadden@diamondmccarthy.com	
15	Michael Tucker	USA Capital Diversified Trust Deed
16	FTI CONSULTING	Fund, LLC Administrator
17	One Renaissance Square	
18	Two N Central Ave., Ste. 1200	
19	Phoenix, AZ 85004-2322	
20	michael.tucker@fticonsulting.com	
21	Robert P. Goe	Attorneys for SCC Acquisition Corp
22	GOE & FORSYTHE	
23	660 Newport Center Drive, Suite 320	
24	Newport Beach, CA 92660	
25	rgoe@goeforlaw.com	
26	Gerald M. Gordon	Attorneys for Lisa M. Poulin,
27	Gregory E. Garman	Trustee, USA Investment Partners,
28	GORDON & SILVER, LTD.	LLC
29	3960 Howard Hughes Parkway, 9th Floor	
30	Las Vegas, NV 89109	
31	gmg@gordonsilver.com	
32	geg@gordonsilver.com	
33	Janet L. Chubb	Attorneys for Charles B. Anderson
34	JONES VARGAS	Trust; Rita P. Anderson Trust;
35	100 W. Liberty St, 12 th Floor	Baltes Company; Robert J. Kehl,
36	POB 281	Ruth Ann Kehl, Daniel J. Kehl,
37	Reno, NV 89504-0281	Kehl Development, Keven Kehl,
38	jlc@jonesvargas.com	Kevin Kehl for Susan L. Kehl,
39	tbw@jonesvargas.com	Kevin Kehl for Andrew Kehl;
40		Warren Hoffman Family
41		Investments, LP; Judy A. Bonnet;
42		Robert A. Kehl and Tina M. Kehl;
43		Krystina L. Kehl; Christina M.
44		Khel; Kevin McKee; Cynthia
45		Winter; and Mojave Canyon, Inc.



1	Address	Role
2	Dean T. Kirby, Jr. John Hebert KIRBY & McGUINN, A.P.C. 600 B Street, Suite 1950 San Diego, CA 92101 dkirby@kirbymac.com jhebert@kirbymac.com	Attorneys for Debt Acquisition Company of America V
6	Susan M. Freeman Rob Charles LEWIS AND ROCA LLP 3993 Howard Hughes Pkwy, Suite 600 Las Vegas, NV 89169-5996 SFreeman@LRLaw.com RCharles@LRLaw.com	Attorneys for USACM Liquidating Trust
11	Michelle Abrams MICHELLE L. ABRAMS, LTD. 3085 S Jones Blvd., Suite C Las Vegas, NV 89146 mabrams@abramstanko.com	Attorney for Debt Acquisition Company of America V
14	Richard W. Esterkin Asa S. Hami MORGAN, LEWIS & BOCKIUS LLP 300 S Grand Avenue, 22 nd Floor Los Angeles, CA 90071-3132 resterkin@morganlewis.com ahami@morganlewis.com	Attorneys for SCC Acquisition Corp
18	August B. Landis OFFICE OF THE U.S. TRUSTEE 300 Las Vegas Blvd., S. Suite 4300 Las Vegas, NV 89101 augie.landis@usdoj.gov	Office of U.S. Trustee
21	Jeffrey D. Hermann ORRICK, HERRINGTON & SUTCLIFFE LLP 777 S Figueroa Street, Suite 3200 Los Angeles, CA 90017-5855 jhermann@orrick.com	Attorneys For USA Capital Diversified Trust Deed Fund, LLC
24	Marc A. Levinson ORRICK, HERRINGTON & SUTCLIFFE, LLP 400 Capitol Mall, Suite 3000 Sacramento, CA 95814 malevinson@orrick.com	Attorneys For USA Capital Diversified Trust Deed Fund, LLC

LEWIS
AND
ROCA
—LLP—
LAWYERS

1	Address	Role
2	William J. Ovca, Jr., Trustee	Direct Lender
3	Defined Pension Plan	
4	OVCA ASSOCIATES, INC.	
5	16872 Baruna Lane	
6	Huntington Beach, CA 92649	
7	<u>N1GL@aol.com</u>	
8	Facsimile: 714-840-6672	
9	Brian D. Shapiro	Attorney for Michael W. Carmel,
10	LAW OFFICE OF BRIAN D SHAPIRO LLC	Chapter 11 Trustee in Thomas A.
11	624 S 9 th Street	Hantges Bankruptcy
12	Las Vegas, NV 89101	
13	<u>bshapiro@brianshapirolaw.com</u>	
14	Robert R. Kinas	Attorneys for USA Capital
15	SNELL & WILMER, LLP	Diversified Trust Deed Fund, LLC
16	3883 Howard Hughes Parkway, #1100	
17	Las Vegas, NV 89169	
18	<u>rkinas@swlaw.com</u>	
19	Robbin L. Itkin	Attorneys for Michael W. Carmel,
20	STEPTOE & JOHNSON LLP	Chapter 11 Trustee in Thomas A.
21	2121 Avenue of the Stars, Suite 2800	Hantges Bankruptcy
22	Los Angeles, CA 90067	
23	<u>ritkin@steptoe.com</u>	
24	Lisa A. Rasmussen, Esq.	Attorneys for Carol Mortensen
25	LAW OFFICES OF LISA RASMUSSEN	
26	616 South 8 th Street	
27	Las Vegas, NV 89101	
28	<u>lisa@lrasmussenlaw.com</u>	
29	Bradley Paul Elley, Esq.	Attorneys for Retirement Accounts,
30	120 Country Club Drive, Suite 5	Inc., Custodian for Judd Robbins
31	Incline Village, NV 89451	IRA and Tesseract Trust dated
32	<u>bpelleylawbk@sbcglobal.net</u>	3/31/04
33	Bradley N. Boodt	Attorneys for Nevada State Bank
34	HOLLAND & HART LLP	
35	Hughes Center	
36	3800 Howard Hughes Pkwy., 10 th Floor	
37	Las Vegas, Nevada 89169	
38	<u>bnboodt@hollandhart.com</u>	

26 /s/ Carrie Lawrence
 27 Carrie Lawrence
 28 Lewis and Roca LLP